

Remarks

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendment, claims 2-10 are pending in the application, with claims 2, 3, 7, 8 and 9 being the independent claims. Claims 2-5 and 7 have been amended. Claims 8-10 have been added. These changes are believed to introduce no new matter. Based on the above amendments and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Examiner Interview of March 22, 2007

Applicant wishes to thank Examiner Glass and Examiner Gilligan for taking the time to meet with Applicant's representatives on March 22, 2007. The amendments and remarks presented herein are further to the issues discussed in the Examiner Interview. More specifically, the amendments and remarks presented herein further emphasize that the '761 patent fails to teach a system and method for fulfilling a medication prescription as claimed.

Rejections under 35 U.S.C. § 102

Claims 2-7 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,283,761, to Joao ("the '761 patent"). Applicant respectfully disagrees with the Examiner's position that each and every feature of claims 2-7 are disclosed in the '761 patent. Therefore, based on the above amendments and following remarks, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 2-7 under 35 U.S.C. § 102(e).

To begin with, Applicant wishes to incorporate herein the arguments presented in the Amendment and Reply Under 37 C.F.R. § 1.116, filed on November 2, 2006. In

particular, Applicant wishes to reiterate that the information claimed as stored on the stored memory is intended to be limiting and is in fact the very crux of the invention. The Applicant has developed an improved system and method of transferring and managing specific information via a personal memory card (PMC). More specifically, the Applicant has developed an improved system and method of preparing and fulfilling a medication prescription using a PMC. The listed information is an important part of the invention; the system and method claimed would not be functional without the information stored on the stored memory.

Further, the '761 patent teaches a system wherein a central processing computer serves as the "keeper" of the patient's healthcare information. In the system taught by the '761 patent, a healthcare provider accesses the central processing computer in order to obtain the patient's information. In other words, the central processing computer of the '761 patent serves as a central axis, or hub, from which information may be pulled.

The claimed system and method, however, provide a means for preparing and fulfilling a patient's medical prescription by directing the flow of information appropriately. In general, the patient carries with him a PMC containing information on a plurality of preferred pharmacies. These pharmacies may be, for example, a list of pharmacies closest to the patient's home, or a list of pharmacies accepting the patient's insurance. A physician then enters a medical prescription on the PMC. The information on the PMC may then be used to actively commence a feedback loop. First, a prescription fulfillment request is sent to a first preferred pharmacy. If the first preferred pharmacy is able to fulfill the request, then a confirmation is returned to the transmitter. If the first preferred pharmacy is not able to fulfill the request, then a denial is returned to

the transmitter. If the transmitter receives a denial from the first preferred pharmacy, the transmitter may then actively transmit a prescription fulfillment request to a second preferred pharmacy. These active steps may be repeated until one of the preferred pharmacies on the PMC returns confirmation that they can fulfill the prescription request. As discussed in the Examiner Interview, the '761 patent does not teach such a directed flow of information. The amendments provided herein are intended to further capture such directed flow of information.

For example, claim 2 has been amended to include the feature of "providing a patient with a personal memory card (PMC) having a stored memory, wherein said stored memory includes ... a plurality of preferred pharmacy information ... transmitting a prescription fulfillment request electronically ... to a first preferred pharmacy, wherein said first preferred pharmacy is selected from the plurality of preferred pharmacy information in said stored memory ... and receiving a prescription fulfillment confirmation electronically from the first preferred pharmacy." The '761 patent does not disclose a memory card having a stored memory including a plurality of preferred pharmacy information. While the '761 patent does mention that a patient can be provided with an identification card including "any other information *described herein* as being pertinent to the respective patient, user, provider, payer, and/or intermediary," the '761 patent fails to disclose that such "pertinent" information includes a plurality of preferred pharmacy information. (emphasis added) (See the '761 patent, col. 39, ln 54-67, and col. 40, lns. 1-12.) As a matter of fact, the word "pharmacy" does not even appear in the '761 patent. The '761 only broadly implies that the disclosure "provides an apparatus and a method for providing a comprehensive processing system which

incorporates data and/or information from any combination and/or all of the participants in the healthcare field including, but not limited to ... pharmacists" (See the '761 patent, col. 12, lns. 22-42.) To say that these two broad, blanket statements anticipate a PMC including information of a plurality of preferred pharmacy information is to contradict the jurisprudence of § 102, which requires that the applied reference teach each and every limitation of the claim. The '761 patent simply does not teach the concept of a PMC card having information on a plurality of pharmacies preferred by the patient, and then using such information to select a first pharmacy and transmit a prescription fulfillment request to the first pharmacy. Also, nowhere in the '761 patent is there any mention of transmitting a prescription fulfillment request electronically to a preferred pharmacy, and receiving a confirmation electronically advising that the prescription has been fulfilled.

Since the '761 patent does not teach or suggest each and every feature of claim 2, the claim should be allowable over the '761 patent. Claim 5 depends from and adds further features to claim 2. Claim 5 should be allowable for at least the same reasons as discussed above with respect to claim 2.

With regard to claim 3, the Applicant wishes to reiterate that the information stored on the PMC is intended to be a further limitation on the claim. The claimed system would not be functional if the listed information were not part of the stored memory on the PMC. Specifically, claim 3 calls for "data stored on the stored memory [of the PMC], said data including ... a plurality of preferred pharmacy information...." The '761 patent does not disclose data, stored on a stored memory of a memory card, wherein said data includes a plurality of preferred pharmacy information. As stated

above, while the '761 patent does mention that a patient can be provided with an identification card including "any other information *described herein* as being pertinent to the respective patient, user, provider, payer, and/or intermediary," the '761 patent fails to disclose that such "pertinent" information includes a plurality of preferred pharmacy information. (emphasis added) (See the '761 patent, col. 39, ln 54-67, and col. 40, lns. 1-12.) The word "pharmacy" does not even appear in the '761 patent. The '761 only broadly implies that the disclosure "provides an apparatus and a method for providing a comprehensive processing system which incorporates data and/or information from any combination and/or all of the participants in the healthcare field including, but not limited to ... pharmacists" (See the '761 patent, col. 12, lns. 22-42.) To say that these two broad, blanket statements anticipates "data stored on the stored memory, said data including ... a plurality of preferred pharmacy," is to contradict the jurisprudence of § 102, which requires that the applied reference teach each and every limitation of the claim.

Further, claim 3 calls for a host server "programmed to ... transmit a prescription fulfillment request ... to a first preferred pharmacy, wherein the first preferred pharmacy is selected from the plurality of preferred pharmacy information." Nowhere in the '761 is there any mention of a host server so programmed. It should be noted that the programming of the server is not an intended use of the server. The claim does not call for "a server *for* transmitting" To the contrary, claim 3 calls for a very specific server, that being one "*programmed to ... transmit a prescription fulfillment request*"

Additionally, claim 3 calls for the host server to be "programmed to ... receive a prescription fulfillment confirmation from the first preferred pharmacy." Such a feature

is part of the feedback loop discussed above. The '761 patent does not teach such a feature because the '761 patent does not contemplate a feedback loop for preparing and fulfilling a patient's medical prescription. Therefore, since the '761 patent does not teach or suggest each and every feature of claim 3, the claim should be allowable over the '761 patent. Claim 6 depends from and adds further features to claim 3. Claim 6 should be allowable for at least the same reasons as discussed above with respect to claim 3.

Similarly, claim 7 has been amended to call for the feature of "data including ... a plurality of preferred pharmacy information... ." Nowhere in the '761 patent is there any teaching of data including a plurality of preferred pharmacy information. Further, claim 7 calls for the feature of a "server programmed ... to electrically transmit a prescription fulfillment request to [a] first preferred pharmacy," wherein the first preferred pharmacy "is selected from the plurality of preferred pharmacy information." Such a server is not taught by the '761 patent. Since the '761 patent does not teach or suggest each and every feature of claim 7, the claim should be allowable over the '761 patent. Claim 4 depends from and adds further features to claim 7. Claim 4 should be allowable for at least the same reasons as discussed above with respect to claim 7.

New Claims 8-10

Claims 8-10 have been added. Claims 8-10 are directed to a means for preparing and fulfilling a patient's medical prescription by directing the flow of information appropriately. The '761 patent does not teach such a directed flow of information. As such, claims 8-10 should be allowable over the '761 patent.

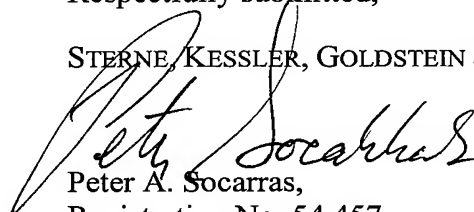
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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